

APPENDIX

The following portions of the indicated sections of Article XIII, Regulations 3 (1942), United States Treasury Department, Bureau of Internal Revenue, are deemed pertinent to this petition.

Sec. 182.239. Hearing officers.—The Commissioner or district supervisor may conduct hearings, or may, in writing, designate and appoint some official or employee of the Treasury Department as a hearing officer to conduct and hold hearings and make findings of fact as hereinafter provided

Sec. 182.240. Grounds for citation.—The permittee shall be cited to appear at a hearing and show cause why his permit should not be revoked.

(1) If at any time there shall be filed with the Commissioner or district supervisor a complaint, under oath, setting forth facts showing that the permittee . . . has made any false statement in the application therefor, or has wilfully failed to disclose any information required to be furnished . . . , or

(2) Whenever the Commissioner or district supervisor has reason to believe, from facts coming officially to his knowledge from investigations and written reports made by an investigator, inspector, or other officer, that a permittee has violated any of the provisions in paragraph (1) above; . . .

Sec. 182.241. Citation.—All citations for revocation of permits must be signed by the Commissioner or district supervisor, as the case may be, but the Commissioner or district supervisor may in writing designate any officer under his jurisdiction to sign his name to any citation: *Provided*, That in no event shall a hearing officer be required to prepare or sign a citation in any particular case in which he will sit as hearer.

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Sec. 182.253. Findings of the hearing officer.—Within a reasonable time after the conclusion of a hearing, the hearing officer shall render written findings of fact, in which he shall state briefly the issues of fact involved in the hearing, his conclusions thereon from the evidence adduced, and a summary of the evidence offered by both parties, and immediately transmit the original thereof, together with the original transcript of record, to the district supervisor or Commissioner, as the case may be.

Sec. 182.254. Order revoking permit or dismissing proceedings.—If the Commissioner or district supervisor, as the case may be, after consideration of the record of evidence taken at the hearing, approves the findings and conclusions of the hearing officer he shall make an order revoking the permit or dismissing the proceedings in accordance therewith. If he disapproves such findings or conclusions, he shall make such findings and order as in his opinion are warranted by the law and facts of the case. An original copy of the order made by the Commissioner or district supervisor, and a copy of the findings of the hearing officer, if they are approved, or a copy of the findings of the Commissioner or district supervisor, if the findings of the hearing officer are disapproved, shall be forwarded to the permittee or his attorney of record in the proceedings.

(a) *Notice to Commissioner.*—When the district supervisor makes an order revoking a permit, he will furnish a copy of the order to the Commissioner. Should such order be subsequently set aside upon reconsideration, or review by a court of equity, the district supervisor will so advise the Commissioner.

Sec. 182.255. Reconsideration of order revoking permit.—(a) *Time for filing application.*—Within 20 days after an order is made by the Commissioner or district supervisor revoking a basic permit, the permittee may file an application with such Commissioner or district supervisor, for a reconsideration of such order, on one or more of the following grounds:

- (1) The order is contrary to law, or
- (2) Is not supported by the evidence, or

(3) Because of newly discovered evidence which the permittee, with due diligence, was unable to produce at the hearing.

If the application is based on grounds (1) or (2), the permittee shall specify therein, by reference to the record, in what respects the order is contrary to law or is not supported by the evidence, as the case may be. If the application is based on ground (3), the permittee shall summarize therein the newly discovered evidence and set forth why he was unable to produce such evidence prior to the closing of the record.

(b) *Time of hearing.*—The Commissioner or district supervisor, with whom such application is filed, may hear the application on a date and at a place to be fixed by him. The Commissioner or district supervisor, as the case may be, after hearing such application, may either affirm the order of revocation previously made, or may vacate and set aside such order and dismiss the proceedings or order a new hearing of the evidence before a designated hearing officer.

(c) *Permit privileges.*—During the period above provided for filing application for reconsideration, and until final order is duly made after such reconsideration, if such application is filed within the time provided therefor, the permit involved shall continue in force and effect, except as to restrictions on withdrawals or transportation as may be ordered by the Commissioner or district supervisor, as provided in section 182.245.

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Sec. 182.257. Appeal to the Commissioner.—Appeal to the Commissioner is not required. However, the Commissioner may, in his discretion, in order to insure uniformity of administrative action, entertain an appeal, after review and reconsideration as provided in section 182.255, from an order of revocation of a basic permit by a district supervisor, if filed with the Commissioner within 10 days of the date of the final order.

(a) *Petition.*—The petition for review must set forth facts tending to show action of an arbitrary nature, or of a

proceeding and action contrary to law or regulations. No objection to the final order of the district supervisor will be considered by the Commissioner unless such objection was urged before the district supervisor in the permittee's application for reconsideration, or unless reasonable grounds for failure to urge such objections are set forth in the petition for review.

(b) *Permit privileges.*—If such request is filed within the required time, the permit involved shall continue in force and effect until the final order by the Commissioner, except as to such restrictions upon withdrawals or transportation as may be imposed by the district supervisor, as provided in section 182.245.

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